

SENATE BILL 966

D5

2lr3090

By: **Senator Gladden**

Introduced and read first time: February 15, 2012

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Civil Rights – Employment Discrimination – Employment Status**

3 FOR the purpose of prohibiting discrimination in employment based on employment
4 status, including discrimination by employers, employment agencies, labor
5 organizations, and training programs; defining a certain term; and generally
6 relating to discrimination in employment based on employment status.

7 BY adding to

8 Article – State Government

9 Section 20–601(f)

10 Annotated Code of Maryland

11 (2009 Replacement Volume and 2011 Supplement)

12 BY repealing and reenacting, with amendments,

13 Article – State Government

14 Section 20–601(f), (g), (h), and (i), 20–602, 20–603, and 20–606

15 Annotated Code of Maryland

16 (2009 Replacement Volume and 2011 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article – State Government**

20 20–601.

21 **(F) “EMPLOYMENT STATUS” MEANS THE STATUS OF AN APPLICANT AS**
22 **EMPLOYED OR UNEMPLOYED AT THE TIME OF THE APPLICATION.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **[(f)] (G)** “Genetic information” has the meaning stated in § 27–909(a)(3) of
2 the Insurance Article.

3 **[(g)] (H)** “Genetic test” has the meaning stated in § 27–909(a)(5) of the
4 Insurance Article.

5 **[(h)] (I)** (1) “Labor organization” means:

6 (i) a labor organization engaged in an industry; and

7 (ii) an agent of an organization described in item (i) of this
8 paragraph.

9 (2) “Labor organization” includes:

10 (i) an organization of any kind, an agency, or an employee
11 representation committee, group, association, or plan:

12 1. in which employees participate; and

13 2. that exists, wholly or partly, for the purpose of dealing
14 with employers concerning grievances, labor disputes, wages, rates of pay, hours, or
15 other terms or conditions of employment; and

16 (ii) a conference, general committee, joint or system board, or
17 joint council that is subordinate to a national or international labor organization.

18 **[(i)] (J)** “Religion” includes all aspects of religious observances, practice,
19 and belief.

20 20–602.

21 It is the policy of the State, in the exercise of its police power for the protection
22 of the public safety, public health, and general welfare, for the maintenance of
23 business and good government, and for the promotion of the State’s trade, commerce,
24 and manufacturers:

25 (1) to assure all persons equal opportunity in receiving employment
26 and in all labor management–union relations, regardless of race, color, religion,
27 ancestry or national origin, sex, age, marital status, sexual orientation,
28 **EMPLOYMENT STATUS**, or disability unrelated in nature and extent so as to
29 reasonably preclude the performance of the employment; and

30 (2) to that end, to prohibit discrimination in employment by any
31 person.

1 20-603.

2 This subtitle does not require:

3 (1) an employer, employment agency, labor organization, or joint
4 labor-management committee subject to this subtitle to grant preferential treatment
5 to any individual or group on the basis of the race, color, religion, sex, age, national
6 origin, sexual orientation, **EMPLOYMENT STATUS**, or disability of the individual or
7 group because an imbalance may exist with respect to the total number or percentage
8 of individuals of any race, color, religion, sex, age, national origin, [or] sexual
9 orientation, **OR EMPLOYMENT STATUS** or individuals with disabilities employed by
10 the employer, referred or classified for employment by the employment agency or labor
11 organization, admitted to membership or classified by the labor organization, or
12 admitted to, or employed in, any apprenticeship or other training program, compared
13 to the total number or percentage of individuals of that race, color, religion, sex, age,
14 national origin, [or] sexual orientation, **OR EMPLOYMENT STATUS** or individuals
15 with disabilities in the State or any community, section, or other area, or in the
16 available work force in the State or any community, section, or other area; or

17 (2) an employer to reasonably accommodate an employee's religion or
18 disability if the accommodation would cause undue hardship on the conduct of the
19 employer's business.

20 20-606.

21 (a) An employer may not:

22 (1) fail or refuse to hire, discharge, or otherwise discriminate against
23 any individual with respect to the individual's compensation, terms, conditions, or
24 privileges of employment because of:

25 (i) the individual's race, color, religion, sex, age, national origin,
26 marital status, sexual orientation, genetic information, **EMPLOYMENT STATUS**, or
27 disability unrelated in nature and extent so as to reasonably preclude the performance
28 of the employment; or

29 (ii) the individual's refusal to submit to a genetic test or make
30 available the results of a genetic test;

31 (2) limit, segregate, or classify its employees or applicants for
32 employment in any way that would deprive or tend to deprive any individual of
33 employment opportunities or otherwise adversely affect the individual's status as an
34 employee because of:

35 (i) the individual's race, color, religion, sex, age, national origin,
36 marital status, sexual orientation, genetic information, **EMPLOYMENT STATUS**, or

1 disability unrelated in nature and extent so as to reasonably preclude the performance
2 of the employment; or

3 (ii) the individual's refusal to submit to a genetic test or make
4 available the results of a genetic test;

5 (3) request or require genetic tests or genetic information as a
6 condition of hiring or determining benefits; or

7 (4) fail or refuse to make a reasonable accommodation for the known
8 disability of an otherwise qualified employee.

9 (b) An employment agency may not:

10 (1) fail or refuse to refer for employment or otherwise discriminate
11 against any individual because of the individual's race, color, religion, sex, age,
12 national origin, marital status, sexual orientation, **EMPLOYMENT STATUS**, or
13 disability unrelated in nature and extent so as to reasonably preclude the performance
14 of the employment; or

15 (2) classify or refer for employment any individual on the basis of the
16 individual's race, color, religion, sex, age, national origin, marital status, sexual
17 orientation, **EMPLOYMENT STATUS**, or disability unrelated in nature and extent so as
18 to reasonably preclude the performance of the employment.

19 (c) A labor organization may not:

20 (1) exclude or expel from its membership, or otherwise discriminate
21 against, any individual because of the individual's race, color, religion, sex, age,
22 national origin, marital status, sexual orientation, **EMPLOYMENT STATUS**, or
23 disability unrelated in nature and extent so as to reasonably preclude the performance
24 of the employment;

25 (2) limit, segregate, or classify its membership, or classify or fail or
26 refuse to refer for employment any individual, in any way that would deprive or tend
27 to deprive the individual of employment opportunities, limit the individual's
28 employment opportunities, or otherwise adversely affect the individual's status as an
29 employee or as an applicant for employment because of the individual's race, color,
30 religion, sex, age, national origin, marital status, sexual orientation, **EMPLOYMENT**
31 **STATUS**, or disability unrelated in nature and extent so as to reasonably preclude the
32 performance of the employment; or

33 (3) cause or attempt to cause an employer to discriminate against an
34 individual in violation of this section.

35 (d) An employer, labor organization, or joint labor-management committee
36 controlling apprenticeship or other training or retraining programs, including

1 on-the-job training programs, may not discriminate against any individual in
2 admission to, or employment in, any program established to provide apprenticeship or
3 other training or retraining because of the individual's race, color, religion, sex, age,
4 national origin, marital status, sexual orientation, **EMPLOYMENT STATUS**, or
5 disability unrelated in nature and extent so as to reasonably preclude the performance
6 of the employment.

7 (e) (1) Except as provided in paragraph (2) of this subsection, an
8 employer, labor organization, or employment agency may not print or cause to be
9 printed or published any notice or advertisement relating to employment by the
10 employer, membership in or any classification or referral for employment by the labor
11 organization, or any classification or referral for employment by the employment
12 agency that indicates any preference, limitation, specification, or discrimination based
13 on race, color, religion, sex, age, national origin, marital status, sexual orientation,
14 **EMPLOYMENT STATUS**, or disability.

15 (2) A notice or advertisement may indicate a preference, limitation,
16 specification, or discrimination based on religion, sex, age, national origin, marital
17 status, or disability if religion, sex, age, national origin, marital status, or disability is
18 a bona fide occupational qualification for employment.

19 (f) An employer may not discriminate or retaliate against any of its
20 employees or applicants for employment, an employment agency may not discriminate
21 against any individual, and a labor organization may not discriminate or retaliate
22 against any member or applicant for membership because the individual has:

23 (1) opposed any practice prohibited by this subtitle; or

24 (2) made a charge, testified, assisted, or participated in any manner in
25 an investigation, proceeding, or hearing under this subtitle.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2012.